

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

ASHLEY O'NEIL,

Plaintiff,

v.

LAS VEGAS METROPOLITAN POLICE  
DEPARTMENT, *et al.*,

Defendants.

Case No. 2:22-cv-00474-ART-BNW

ORDER

Plaintiff Ashley O'Neil states that she suffered severe injuries in a motor vehicle crash on or about December 22, 2019. She alleges that she was placed under arrest at the scene of the collision and that the defendants failed to take steps to follow the plan of medical care prescribed for her while she was in pretrial custody, which caused her unnecessary suffering and permanent disfigurement. Before the Court are: (1) Defendant Wellpath, LLC's ("Wellpath") motion to dismiss the claims against it (ECF No. 7) because Wellpath is an "immune contractor" under Nevada law, for failure to plead factual allegations against Wellpath, failure to plead that Wellpath is a person suable under *Monell v. Department of Social Servs.*, 436 U.S. 658 (1978), and because Plaintiff's state law claims against Wellpath fail under state law; and (2) Defendants Las Vegas Metropolitan Police Department ("LVMPD") and Sheriff Joe Lombardo's (together "LVMPD Defendants") motion to dismiss (ECF No. 14) certain claims against them for failure to plead the personal involvement of Sheriff Lombardo, for the inapplicability of the Fourth and Eighth Amendments, for redundancy, and for failure to state a claim. For the reasons set forth in this order, the Court grants in part and denies in part both motions to dismiss.

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## 1 I. BACKGROUND

2 Plaintiff filed her complaint in the District Court of Clark County, Nevada,  
 3 on December 22, 2021 (ECF No. 1 Exh. B (“Complaint”)), and Defendant Wellpath  
 4 removed the case to this Court on March 16, 2022 (ECF No. 1). According to  
 5 Plaintiff’s complaint, she was driving her vehicle and suffered severe injuries in a  
 6 crash on or about December 22, 2019. (Complaint at ¶ 17.) She was placed under  
 7 arrest and taken by ambulance to University Medical Center Trauma, where she  
 8 was diagnosed with a splenic laceration, liver laceration, acute respiratory failure,  
 9 knee laceration, eyebrow laceration, laceration of right great toe without foreign  
 10 body present or damage to nail, closed fracture of distal end of right tibia, closed  
 11 fracture of distal end of right fibula, and displaced fracture of proximal phalanx  
 12 of right great toe. (*Id.* at ¶¶ 18-20.) She received orthopedic surgery on that date,  
 13 then on December 24, 2019 was cleared for discharge with a non-weight bearing  
 14 status for her right leg. (*Id.* at ¶¶ 21-22.) Plaintiff alleges that LVMPD and/or the  
 15 Clark County Detention Center (“CCDC”) were instructed that she would need  
 16 orthopedic surgery in 1-2 weeks for permanent surgical fixation. (*Id.* at ¶ 23.)  
 17 This surgery occurred on January 3, 2020,<sup>1</sup> and she was discharged back to  
 18 CCDC on January 5, 2020. (*Id.* at ¶¶ 25-26.)

19 Plaintiff alleges that upon her discharge, instructions were given to LVMPD  
 20 and/or CCDC that she needed a follow-up appointment in 1-2 weeks. (*Id.* at ¶  
 21 27.) Plaintiff states that she was seen by CCDC medical staff on January 13,  
 22 2020, where the staples in her knee and stitches in her upper eyelid were  
 23 removed. (*Id.* at ¶ 29.) Plaintiff alleges that she was prescribed Tylenol 3’s and  
 24 was given them for seven days, at which point CCDC medical staff stopped giving  
 25 her the medication despite her still being in pain. (*Id.* at ¶ 30.) Thereafter, a few  
 26 days before the anticipated date of her 2-week follow-up, Plaintiff asked Nurse

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 28 <sup>1</sup> Although paragraphs 25 and 26 of Plaintiff’s complaint contain the dates of January 3, 2019,  
 and January 5, 2019, respectively, it is apparent that the year 2020 is intended. (*See id.* at ¶ 29.)

1 “Coco” if the follow-up had been scheduled, and Nurse Coco allegedly responded,  
2 “we’ll schedule it on our own time.” (*Id.* at ¶ 31.)

3 Plaintiff alleges that no appointment had been scheduled and that she had  
4 not been seen by doctors as of February 3, 2020, a month after her surgery. (*Id.*  
5 at ¶ 32.) Plaintiff states that on February 10, 2020, she alerted custodial persons  
6 at CCDC, including Wellpath and LVMPD employees and Nurse Coco, that the  
7 staples under her cast were irritating her leg. (*Id.* at ¶ 33.) She was seen by Nurse  
8 Coco on February 12, 2020, and the cast on her leg was removed, revealing that  
9 her leg was severely swollen with two big abscesses coming up through her  
10 stitches. (*Id.* at ¶¶ 34-35.) “Defendant Employees” [sic] allegedly dug the stitches  
11 out from under the abscesses with an unknown instrument and without any  
12 anesthesia, causing fluid to leak out of Plaintiff’s leg. (*Id.* at ¶ 36.)

13 Plaintiff was then taken back to University Medical Center for medical  
14 evaluation and tested positive for sepsis. (*Id.* at ¶ 37.) Plaintiff underwent surgery  
15 to remove the abscesses and clean the hardware inside her leg on February 13,  
16 2020. (*Id.* at ¶ 39.) On February 14, 2020, Plaintiff had a consultation for surgical  
17 wound infection of her right leg with likely infected hardware, and on February  
18 15, 2020,<sup>2</sup> Plaintiff underwent incision and drainage of her right ankle. (*Id.* at ¶¶  
19 40-41.)

20 Plaintiff was released back into Defendants’ custody on February 19, 2020,  
21 with instructions to follow up in 1-2 weeks and with a prescription for antibiotics  
22 which Plaintiff was required to take every day for 40 days. (*Id.* at ¶¶ 42-43.)  
23 Plaintiff alleges that she was not seen by “Defendant Employees” for over a week  
24 and was never provided her prescription antibiotics, nor was she given her  
25 required physical therapy exercises. (*Id.* at ¶¶ 44-45.)

26 On March 15, 2021, Plaintiff underwent a surgical removal of hardware

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27 <sup>2</sup> Again, paragraphs 41 and 42 of the complaint contain the dates of February 15, 2019, and  
28 February 19, 2019, respectively, but it is apparent that the year 2020 is intended. (*See id.* at ¶  
40.)

1 and fusion of her right ankle, where it was noted that Plaintiff had “a significant  
2 deformity[,]” and a bone graft was inserted in order to stimulate new bone healing.  
3 (*Id.* at ¶¶ 46-47.) Plaintiff was allegedly again directed to receive a follow-up  
4 appointment in 2 weeks, but no action was taken and Plaintiff was not seen until  
5 nearly a month later on April 13, 2021. (*Id.* at ¶¶ 48-49.)

6 Plaintiff alleges that she has suffered permanent damage to her leg, ankle,  
7 and foot due to the deliberate indifference of Defendants. (*Id.* at ¶¶ 54-55.)  
8 Plaintiff alleges that CCDC, LVMPD, Sheriff Lombardo, and Wellpath “maintain  
9 unconstitutional policies and customs regarding providing emergency and/or  
10 higher-level health care to inmates in a timely manner[,]” including “not having  
11 inmates seen or evaluated by higher level medical providers even when necessary  
12 to prevent serious injury or death; allowing and training nurses to practice  
13 outside their nursing scope; refusing to transfer inmates to higher level of acuity  
14 even where necessary to prevent serious injury or death; and, a widespread  
15 custom and tolerated practice and habit of treating all inmate detainee illnesses  
16 as fabricated, feigned, or not serious until an inmate/detainee can prove  
17 otherwise, often to save money on providers and testing.” (*Id.* at ¶¶ 63-64.)  
18 Plaintiff alleges that Defendant Wellpath has a contractual relationship with  
19 LVMPD and/or CCDC to provide medical services to detainees at CCDC. (*Id.* at ¶  
20 6.)

21 Plaintiff names as Defendants LVMPD, CCDC, Sheriff Lombardo both  
22 individually and in his official capacity, Wellpath, Doe Nurse Coco, and Doe  
23 Officers and Nurses. (*Id.* at ¶¶ 2-9.) Plaintiff brings nine claims: (1) a claim under  
24 42 U.S.C. § 1983 against all Defendants for violation of the Fourth, Eighth, and  
25 Fourteenth Amendments; (2) a § 1983 claim against all Defendants for violation  
26 of the Eighth Amendment; (3) a negligence claim against all Defendants; (4) a  
27 *Monell* claim for failure to train against Defendants LVMPD, CCDC, Sheriff  
28 Lombardo, and Wellpath; (5) a *Monell* claim against Defendants LVMPD, CCDC,

1 Sheriff Lombardo, and Wellpath; (6) a claim for violation of the Nevada  
 2 Constitution against all Defendants; (7) a claim for negligent hiring, training,  
 3 supervision, and retention against Defendants LVMPD, CCDC, and Wellpath; (8)  
 4 a concert of action claim against all Defendants; and (9) a claim for negligent  
 5 infliction of emotional distress against all Defendants.

## 6 **II. WELLPATH MOTION TO DISMISS**

7 Defendant Wellpath filed its motion to dismiss on March 23, 2022. (ECF  
 8 No. 7.) Defendant Wellpath seeks dismissal of all the claims against it and makes  
 9 four arguments: (1) Wellpath is an “immune contractor” under NRS 41.0307; (2)  
 10 Plaintiff fails to plead any specific factual allegations against Wellpath; (3) Plaintiff  
 11 fails to plead how Wellpath, a private corporation, is a person suable under  
 12 *Monell*; and (4) Plaintiff’s state law claims fail under state law. Wellpath also  
 13 argues that Plaintiff has not pled allegations sufficient to seek punitive damages.

### 14 **A. IMMUNE CONTRACTOR**

15 Wellpath argues that it is an immune contractor for the purposes of chapter  
 16 41 of the Nevada Revised Statutes. NRS 41.0307(3) defines “immune contractor”  
 17 to mean “any natural person, professional corporation or professional association  
 18 which[ i]s an independent contractor with the State [and c]ontracts to provide  
 19 medical services for the Department of Corrections.” However, Plaintiff alleges  
 20 that Wellpath contracted with Clark County viz. LVMPD to provide services for  
 21 CCDC. (Complaint at ¶ 6; see ECF No. 17-1 at 1.) Neither LVMPD nor CCDC are  
 22 under the auspices of the Nevada Department of Corrections, therefore Wellpath  
 23 is not an immune contractor. *See Allen v. Clark Cnty. Det. Ctr.*, 2012 WL 395646,  
 24 at \*6 n.2 (D. Nev. Feb. 7, 2012) (rejecting argument that NRS 41.0307(3) applies  
 25 to a contractor of CCDC).

### 26 **B. FACTUAL ALLEGATIONS**

27 Wellpath argues that Plaintiff does not provide any factual allegations  
 28 detailing Wellpath’s role in a constitutional violation. Wellpath points to the fact

that the actions described in Plaintiff's complaint were taken by Doe Nurses and Officers, including Doe Nurse Coco, and that Plaintiff alleges that Sheriff Lombardo was responsible for these Doe Nurses and Officers, noting that respondeat superior liability is not available under § 1983. (See ECF No. 7 at 6-7.) However, as Plaintiff points out, Plaintiff's allegations against Wellpath are that Wellpath injured Plaintiff by and through its failure to adopt policies and train employees to ensure that adequate medical care was provided. (ECF No. 17 at 7 (citing Complaint at ¶¶ 62, 83, 117).) Plaintiff alleges that Wellpath was contracted to provide health care services to CCDC inmates, so the fact that it is unclear who, exactly, was responsible for the Doe Nurses and Officers, including Doe Nurse Coco, is part of Plaintiff's allegations. Discovery is warranted to illuminate these policies and relationships.

### **C. MONELL**

Wellpath argues that Plaintiff has not adequately pled that Wellpath, being a private corporation, is suable as a "person" for *Monell* purposes. However, this Court has long recognized that Wellpath is subject to *Monell* liability. See, e.g., *Crawley v. Naphcare*, 2021 WL 8016002, at \*4 (D. Nev. May 11, 2021) (citing *Tsao v. Desert Palace, Inc.*, 698 F.3d 1128, 1139 (9th Cir. 2012)); see also *Villegas v. Gilroy Garlic Festival Ass'n*, 541 F.3d 950, 954–55 (9th Cir. 2008) (citing *Lugar v. Edmondson Oil Co.*, 457 U.S. 922 (1982)) (describing the "close nexus" test and the four factors to consider in evaluating whether the private organization had a close nexus to the State). Here, Plaintiff alleges that Wellpath was granted the exclusive right to provide health care to CCDC inmates, which is sufficient at the pleading stage to establish a close nexus between Wellpath and the State for *Monell* purposes.

### **D. STATE LAW CLAIMS**

Plaintiff brings five state law claims against Wellpath: (1) negligence; (2) violation of the Nevada Constitution; (3) negligent hiring, training, supervision,

1 and retention; (4) concert of action; and (5) negligent infliction of emotional  
2 distress. Wellpath argues that the negligence claim sounds in medical  
3 malpractice and should be dismissed, that the concert of action claim and  
4 negligent hiring, training, supervision, and retention claim are foreclosed by state  
5 law, and that the negligent infliction of emotional distress claim is redundant of  
6 the negligence claim.

### 7 **1. Negligence**

8 Wellpath argues that the negligence claim against it is essentially a medical  
9 malpractice claim, which would render it void ab initio since Plaintiff did not  
10 attach to her complaint an affidavit from a medical expert as required by NRS  
11 41A.071. The Supreme Court of Nevada states that “[a]llegations of breach of duty  
12 involving medical judgment, diagnosis, or treatment indicate that a claim is for  
13 medical malpractice” and directs courts to “look to the gravamen or substantial  
14 point or essence of each claim rather than its form to see whether each individual  
15 claim is for medical malpractice or ordinary negligence.” *Szymborski v. Spring*  
16 *Mountain Treatment Ctr.*, 133 Nev. 638, 642–43 (2017). If a jury can only evaluate  
17 the plaintiff’s claims after presentation of the standards of care by a medical  
18 expert, then it is a medical malpractice claim. *Id.* at 642.

19 Here, Plaintiff alleges not that any recommended or prescribed care was  
20 improper or insufficient, but rather that Wellpath systematically failed to provide  
21 recommended and prescribed care. Plaintiff asserts that on two occasions,  
22 University Medical Center doctors recommended that Plaintiff be seen for a  
23 follow-up appointment in 1-2 weeks and that Doe Nurses and Officers, who  
24 Plaintiff alleges were controlled by Wellpath and acted pursuant to Wellpath  
25 policy, failed to follow that plan of care. (Complaint at ¶¶ 31-32, 48-49.) Plaintiff  
26 also alleges that she was prescribed antibiotics which she never received. (*Id.* at  
27 ¶¶ 43-44.) The Court agrees with Plaintiff that the gravamen of her complaint is  
28 not something that requires medical expert testimony in order to evaluate. While



1 the decision of whether to prescribe a certain medicine may require medical  
2 knowledge, common sense dictates that a patient should be given their medicine  
3 in a timely fashion once it has been prescribed, and therefore it is ordinary  
4 negligence, not medical malpractice, to fail to give this medicine. The same can  
5 be said for follow-up appointments. Wellpath's motion to dismiss Plaintiff's  
6 negligence claim is denied.

## 7 **2. Negligent hiring, training, supervision, and retention**

8 Wellpath argues that Plaintiff's negligent hiring, training, supervision, and  
9 retention claim fails under the line of cases holding that this cause of action is  
10 foreclosed by NRS 41.032(2) as a discretionary function, *e.g.*, *Plank v. Las Vegas*  
11 *Metro. Police Dep't*, 2016 WL 1048892, at \*8 (D. Nev. Mar. 14, 2016), and because  
12 Plaintiff does not identify a particular person that Wellpath was negligent in  
13 hiring, etc. Plaintiff responds that discretionary function immunity does not apply  
14 when it is alleged that the actions taken are the result of deliberate disregard of  
15 rights and are in violation of the Constitution.<sup>3</sup> (ECF No. 17 at 17-18.) However,  
16 while Plaintiff does allege deliberate indifference and violation of the Constitution  
17 in other claims, Plaintiff does not explain the connection between those  
18 allegations and any allegedly negligent hiring, training, supervision, or retention.  
19 As Wellpath points out, Plaintiff does not identify a particular individual that  
20 Wellpath negligently hired or retained. Wellpath's motion to dismiss this claim is  
21 granted with leave to amend.

## 22 **3. Concert of action**

23 Wellpath argues that under Nevada law political subdivisions of the State  
24 are legally incapable of entering into a conspiracy, which would entail dismissal  
25 of this claim against Wellpath since Wellpath cannot conspire alone. In support  
26 of this argument, Wellpath cites a single case from this Court in 1986 stating,

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28 <sup>3</sup> As Plaintiff suggests, it is not clear that NRS 41.032 applies to Wellpath since, as explained above, Wellpath is not an immune contractor nor an arm of the State.



1 without citation, that political subdivisions of the State are legally incapable of  
2 entering into a conspiracy. The Court does not see adequate legal basis to dismiss  
3 this claim based on that authority alone.

4 Wellpath also argues that this action is foreclosed by NRS 41.141(6)(a),  
5 which concerns the defense of comparative negligence. Specifically, the section  
6 provides a general rule that “the comparative negligence of the plaintiff [...] does  
7 not bar a recovery if that negligence was not greater than the negligence or gross  
8 negligence of the parties to the action against whom recovery is sought[.]” That  
9 section creates an exception from that general rule for “an action based upon[  
10 t]he concerted acts of the defendants[.]” but then defines “Concerted acts of the  
11 defendants” to “not include negligent acts committed by providers of health care  
12 while working together to provide treatment to a patient.” So, taken together,  
13 concerted acts of health care providers are the exception-to-the-exception and  
14 fall under the general rule of comparative negligence set forth in NRS 41.141(1).  
15 In any event, nothing in this section establishes that Wellpath cannot be sued for  
16 an allegation that sounds in conspiracy. Wellpath’s motion to dismiss this claim  
17 is denied.

#### 18 **4. Negligent infliction of emotional distress**

19 Wellpath argues that this claim is duplicative of Plaintiff’s negligence claim  
20 and should be dismissed. However, Wellpath cites no authority that requires a  
21 negligent infliction of emotional distress claim to be subsumed into a general  
22 negligence claim, and as a general matter a plaintiff may plead alternative claims  
23 and forms of relief. Wellpath’s motion to dismiss this claim is denied.

#### 24 **E. PUNITIVE DAMAGES**

25 Wellpath argues that the claims for punitive damages against it should be  
26 dismissed under NRS 42.007, which provides that an employer cannot be liable  
27 for punitive damages unless, among other instances, the employer expressly  
28 authorized or ratified the wrongful act of the employee or the employer is

1 personally guilty of oppression, fraud, or malice, express or implied. As Plaintiff  
2 points out, Plaintiff's complaint alleges that Wellpath is personally guilty viz. its  
3 policies through which Plaintiff was injured, and also that Wellpath expressly  
4 authorized and/or ratified the conduct of its employees. The Court will not  
5 dismiss Plaintiff's claim for punitive damages at this stage.

### 6 **III. LVMPD DEFENDANTS' MOTION TO DISMISS**

7 The LVMPD Defendants filed their motion to dismiss on March 30, 2022.  
8 (ECF No. 14.) The LVMPD Defendants argue that Sheriff Lombardo should be  
9 dismissed entirely since there are no allegations sufficient to state a claim that  
10 Sheriff Lombardo was personally involved, warranting dismissal of the individual  
11 claim against him, and the official capacity claim is redundant of the claim  
12 against LVMPD. The LVMPD Defendants also argue: (1) that Plaintiff's two § 1983  
13 claims and two *Monell* claims are redundant as to one another; (2) the Fourth  
14 and Eighth Amendments are inapplicable since Plaintiff was a pretrial detainee;  
15 and (3) that Plaintiff's Nevada Constitution, negligent hiring, training, and  
16 supervision, and concert of action claims fail to state a claim.

17 Plaintiff concedes and agrees that Sheriff Lombardo can be dismissed  
18 entirely because there are no allegations of personal involvement and the official  
19 capacity claim against him can be brought as a claim against LVMPD. (ECF No.  
20 19 at 7.) Plaintiff also concedes the inapplicability of the Fourth Amendment, but  
21 argues that her § 1983 and *Monell* claims can proceed under the Fourteenth and  
22 Eighth Amendments because some of the allegations occurred after Plaintiff was  
23 convicted and sentenced. (*Id.* at 7-9.)

#### 24 **A. EIGHTH AMENDMENT**

25 Plaintiff claims that the Eighth Amendment applies to allegations after she  
26 was convicted and sentenced in August of 2020. These allegations include the  
27 denial of Plaintiff's physical therapy exercises and the denial of follow-up  
28 appointments, which contributed to Plaintiff having a "significant deformity" in

1 her leg. (*Id.* at 4.) Plaintiff argues that her two § 1983 claims and her two *Monell*  
2 claims are not redundant in that one relates to the Fourteenth Amendment  
3 claims and the other to the Eighth Amendment.

4 The Court agrees with Plaintiff that the Eighth Amendment applies to the  
5 allegations following Plaintiff's conviction and sentencing. The LVMPD  
6 Defendants argue that the claims are still duplicative since they amount to one  
7 claim for deliberate indifference to serious medical needs even if the analysis  
8 employs both the Fourteenth and Eighth Amendment standards. It is well settled  
9 that a Plaintiff may plead alternative claims and forms of relief, so the Court will  
10 permit Plaintiff to bring four total claims: two § 1983 claims and two *Monell*  
11 claims, one each under the Fourteenth and Eighth Amendments. The Court  
12 agrees with the LVMPD Defendants, however, that the § 1983 claims against the  
13 institutional defendants, namely LVMPD, CCDC, and Wellpath, are duplicative of  
14 the *Monell* claims because an institutional defendant would only be liable under  
15 § 1983 under *Monell*. Therefore, Plaintiff's § 1983 claims will proceed against the  
16 individual defendants and the *Monell* claims will proceed against the institutional  
17 defendants.

#### 18 **B. NEVADA CONSTITUTION**

19 Plaintiff alleges that Defendants violated Article 1, § 6, the cruel and  
20 unusual punishment clause, as well as Article 1, § 8(2), the due process clause,  
21 of the Nevada Constitution. (Complaint at ¶¶ 173-74.) The LVMPD Defendants  
22 argue that Plaintiff's claim for violation of the cruel and unusual punishment  
23 clause fails because Plaintiff was not a convicted prisoner for the majority of her  
24 allegations and the allegations for which she was a convicted prisoner do not  
25 constitute cruel and unusual punishment as a matter of law. Plaintiff's  
26 allegations that she was denied physical therapy and follow-up appointments to  
27 her surgery are sufficient to state a claim, especially given that Plaintiff has  
28 alleged that this lack of care contributed to significant deformity in her leg.

1       The LVMPD Defendants also argue, without citation, that Article 1, § 8 is  
2 the “takings clause” of the Nevada Constitution and is therefore inapplicable.  
3 However, while subsection 3 of Article 1, § 8 of the Nevada Constitution is akin  
4 to the Takings Clause of the U.S. Constitution, Plaintiff cites to subsection 2,  
5 which is akin to the Due Process Clause of the U.S. Constitution. Plaintiff’s due  
6 process claim under the Nevada Constitution mirrors her claim alleging violation  
7 of her rights under the Fourteenth Amendment of the U.S. Constitution.

### 8           **C.     REMAINING CLAIMS**

9       The LVMPD Defendants argue that Plaintiff’s negligent hiring, training, and  
10 supervision claim should be dismissed under the discretionary act immunity  
11 provisions of NRS 41.032. Unlike Wellpath, NRS 41.032 clearly applies to the  
12 LVMPD Defendants and case law establishes that the statute bars claims for  
13 negligent hiring, training, and supervision. *Plank v. Las Vegas Metro. Police Dep’t*,  
14 2016 WL 1048892, at \*8 (D. Nev. Mar. 14, 2016) (collecting cases). The LVMPD  
15 Defendants’ motion to dismiss this claim against them is granted without leave  
16 to amend.

17       Finally, the LVMPD Defendants move to dismiss the concert of action claim,  
18 but provide no argument or explanation regarding this claim. The Court will not  
19 dismiss this claim at this time.

### 20           **IV.    CONCLUSION**

21       Wellpath’s motion to dismiss (ECF No. 7) is granted with leave to amend as  
22 to the negligent hiring, training, supervision, and retention claim, and is denied  
23 in all other aspects.

24       The LVMPD Defendants’ motion to dismiss (ECF No. 14) is granted without  
25 leave to amend as to the claims against Sheriff Lombardo, as to Plaintiff’s first  
26 and second causes of action (§ 1983) against LVMPD, CCDC, and Wellpath, and  
27 as to the negligent hiring, training, supervision, and retention claim, and is  
28 denied in all other aspects.

1 DATED THIS 26<sup>th</sup> day of April 2023.

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5 ANNE R. TRAUM  
6 UNITED STATES DISTRICT JUDGE  
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